

U.S. Seeks to Kill Subpoena for CIA Files in B26 Smuggling Case

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BUFFALO, N.Y. — John Richard Hawke, the former Royal Air Force pilot accused of smuggling seven B26 bombers to Portugal, should not be permitted to "rummage around among the files of the Central Intelligence Agency," the government said today.

U.S. atty. John T. Curtin introduced a motion to quash a subpoena for CIA files about the plane-smuggling case. Hawke had claimed he was working for the CIA.

Curtin indicated that the government would be willing to have Lawrence R. Houston, general counsel of the CIA, appear as a witness for Hawke.

In another motion to quash a subpoena, however, he objected to the appearance of Richard M. Bissell, former deputy director of the CIA and architect of the Bay of Pigs invasion, because anything he might be asked would be of a confidential nature and bears upon the national security of the United States and, therefore,

falls within the category of state secrets."

U.S. District Judge John O. Henderson said he would wait until further testimony had been heard before ruling on Curtin's motions.

Hawke and Henri Marin de Montmarin, accused as a go-

between in the deal to smuggle B26 bombers to Portugal for use in Africa, are the remaining defendants of five indicted in the case. One man is outside the country and the indictments against two others have been dismissed since the trial began two weeks ago.

In moving to quash the subpoena against Bissell, Curtin argued that Hawke's attorney, Edwin Marger, was trying to prove indirectly what he could not prove directly.

Bissell resigned from the CIA in February 1962 and is now executive in the United Aircraft Corp. in Hartford, Conn.

"Although Mr. Bissell has been used on infrequent occasions by the Central Intelligence Agency on a consulting basis, this does not require knowledge of CIA operations," Curtin's motion said. "It is obvious, therefore, that Mr. Bissell cannot possess knowledge of the facts connected with this indictment."

"Since the government knows, and is ready to prove, that the CIA did not in fact have any connection with the transaction engaged in by these defendants, it becomes readily apparent that there can be no witnesses to these events," the motion said at another point.

"The government submits that the defendants should not be permitted to attempt to prove by indirect means that which they cannot prove directly," it said.